

May 22, 2020

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WP-05-22-20

## **MARK YOUR CALENDARS FOR UPCOMING EVENTS**

**June 18, 2020** – Utah (UPMRA) Summer Golf Classic – Bountiful Ridge GC – Bountiful, UT

**CANCELED July 19-21, 2020** - Oregon (OFA) Conference - Sunriver Resort - Sunriver, OR

**August 5-7, 2020** – Idaho (IPM&CSA) Convention – Coeur d' Alene Resort – Coeur d' Alene, ID

**CANCELED August 17-19, 2020** – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

**NEW DATE August 24-26, 2020** – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, WA

**NEW DATE September 2-3, 2020** – Montana (MPMCSA) – Convention – Fairmont Hot Springs Resort – Fairmont, MT

**September 9-10, 2020** – Utah (UPMRA) – Convention – Sheraton Park City Hotel – Park City, UT

**NEW DATE October 1-2, 2020** – Nevada NPM&CSA – Big Dogs- Red Rock Hotel & Casino - Las Vegas, NV

**November 2, 2020** – Hawaii (HPMA) Golf Tournament – Oahu Country Club – Honolulu, HI

**February 16-18, 2021** – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

## **REGULATORY COMPLIANCE BULLETIN REMINDER: ANNUAL HAZMAT TRANSPORTATION REGISTRATION RENEWAL DEADLINE IS JULY 1, 2020**

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) requires both hazardous material transporters and those who offer hazardous materials to common carriers for shipment to register and pay a fee each year in return for a certificate of authority to operate in both intrastate and interstate commerce. However, since multiyear registrations are allowed, not all certificates are up for renewal on July 1, 2020. Marketers should look at their registration certificate for the date of renewal or search registration status at PHMSA's online website (provided in the full regulatory report link below) to determine registration renewal year. All expiring registrations must be filed by the July 1, 2020 deadline in order to maintain operating authority to haul hazardous materials (petroleum products). Failure to do so will also result in a substantial fine. HAZMAT registration certificates are routinely checked by enforcement authorities at roadside inspections. Any vehicle without a current HAZMAT registration will be pulled out of service and the company will lose operating authority until registration is brought up to date.

Click [here](https://www.pmaa.org/pmaa_today/archives/2020/today_05_18_20.html) for the full regulatory report. ([https://www.pmaa.org/pmaa\\_today/archives/2020/today\\_05\\_18\\_20.html](https://www.pmaa.org/pmaa_today/archives/2020/today_05_18_20.html))

## **USDA IS NOW ACCEPTING APPLICATIONS FOR MATCHING GRANTS UNDER THE HIGHER BLEND INFRASTRUCTURE INCENTIVE PROGRAM**

U.S. Department of Agriculture (USDA) has launched an online portal to begin accepting applications for Higher Blends Infrastructure Incentive Program (HBIIIP) grants. The program is designed to expand the availability of higher blends of both ethanol and biodiesel to retail consumers.

Click [here](#) for the full PMAA Today report from earlier in the week.

## **U.S. SMALL BUSINESS ADMINISTRATION RELEASES APPLICATION AND INSTRUCTIONS FOR PPP LOAN FORGIVENESS**

The U.S. Small Business Administration (SBA) has released the application borrowers must submit to their lenders to qualify for Paycheck Protection Loan (PPP) forgiveness. The application is accompanied by several worksheets and instructional pages that provide clarity on several critical questions facing PPP loan recipients.

As reported last week, the SBA updated its Frequently Asked Questions (FAQs) (FAQ #46) confirming that "[a]ny borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith." According to the SBA, this "is appropriate because borrowers with loans below this threshold are generally less likely to have had access to adequate sources of liquidity in the current economic environment than borrowers that obtained larger loans." According to some estimates, about half of the approximately 400 PPP loans approved for publicly traded companies were for less than US\$2 million.

## **CDC ISSUES GUIDELINES FOR REOPENING BUSINESSES**

The Centers for Disease Control (CDC) published detailed guidelines for reopening businesses that have been shut down during the COVID-19 pandemic. The document includes "Interim Guidance for Restaurants and Bars" starting on page 53. Click [here](https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/CDC-Activities-Initiatives-for-COVID-19-Response.pdf) to view the guidance. (<https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/CDC-Activities-Initiatives-for-COVID-19-Response.pdf>)

## **MASTERCARD DELAYS EMV DEADLINE TO APRIL 16, 2021 WITH CONDITIONS**

On Monday, Mastercard announced an extension of its EMV liability date to April 16, 2021. In a statement, Mastercard also announced that it “will develop a compliance program for some fuel merchants who have experienced high fraud at their locations to ensure they have a remediation plan in place to preempt and mitigate fraudulent transactions at their locations.”

PMAA is working to get additional details on the fraud mitigation program. For example, what does high fraud risk mean? Does it mean higher than average or will they use some other benchmark? Does high risk apply on a company wide basis or a particular outlet? For example, would a marketer who has a particular high-risk outlet have to implement the fraud mitigation at all his/her outlets? What sort of fraud mitigation activities will they require?

Voyager also just issued a delay to April 17, 2021.  
Major Card Network EMV New deadlines:

VISA: April 17, 2021  
Mastercard: April 16, 2021  
Discover: April 16, 2021  
Amex: April 16, 2021

As you know, PMAA recently completed its own EMV survey over an 8-day period (April 30-May 7th) in which 253 companies participated in the survey. The results clearly demonstrate that a significant number of retail stations are unable to meet the October 2020 EMV deadline.

## **OSHA UPDATED COVID-19 GUIDANCE**

Given the uncertainty surrounding COVID-19, businesses are likely to be faced with COVID-19 complaints as customers return. The Occupational Safety and Health Administration (OSHA) on May 19th issued an updated interim enforcement response plan for COVID-19 and an interim guidance for recording cases of COVID-19.

Under the Updated Interim Enforcement Response Plan for COVID-19, on-site inspections will be prioritized for fatalities and imminent danger exposures with particular attention on high-risk workplaces such as healthcare providers and workplaces with a high number of complaints and areas with high community transmission or a resurgence in community transmission of COVID-19. If on-site inspections cannot be conducted for these cases due to insufficient resources, the inspection will be initiated remotely with a follow-up on-site inspection when resources are available. In areas where the COVID-19 spread has significantly decreased or for medium risk workplaces (jobs with frequent and/or close contact with public or coworkers) and low risk workplaces (minimal occupational contact with the public and other coworkers) OSHA will follow normal (pre-COVID-19) inspection procedures. In these cases, complaints might not result in an on-site inspection but will be conducted using a non-formal phone/fax investigation or rapid response investigations. OSHA Compliance Officers will be required to take appropriate precautions and use personal protective equipment (PPE) when performing COVID-19 inspections.

The Revised Enforcement Guidance for Recording Cases of COVID-19 becomes effective on May 26, 2020. This guidance is time-limited to the current COVID-19 public health crisis. COVID-19 is a recordable illness that employers are responsible for recording if the case is (1) a confirmed case of COVID-19, (2) the case is work related, and (3) meets the criteria in 29 CFR § 1904.7 (i.e., results in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness). In recognition of the transmission of this disease in the community and the resulting difficulty in determining whether a COVID-19 illness is work-related, this guidance describes criteria that will be evaluated to determine if an employer has made a good faith effort to comply with the reporting requirements. OSHA will consider the reasonableness of the investigation into whether the COVID-19 case was work related, the available evidence, and the evaluation of the available evidence.

With this revised guidance, businesses should expect an increase focus and response on COVID-19 complaints. COVID-19 complaints by employees will need to be investigated regardless of whether it is ultimately determined that it was work-related.

## **REMINDER: URGE CONGRESS TO PROVIDE LIABILITY PROTECTION TO ESSENTIAL CRITICAL INFRASTRUCTURE INDUSTRIES**

PMAA is urging Congress to protect essential businesses that remain open during the COVID-19 pandemic from lawsuits and other claims by infected persons. The liability protection effort would provide essential businesses, designated as essential critical infrastructure by the Department of Homeland Security, with immunity from lawsuits claiming money damages for persons who allegedly contracted COVID-19 at a business premises or as a result of business operations.

The motor fuels, heating fuels and convenience store industries are at the forefront of COVID-19 response efforts and should not have to worry about future lawsuits for providing needed products and services to American consumers.

Please click [here](https://www.pmaa.org/advocacy/advocacy/#/30) (https://www.pmaa.org/advocacy/advocacy/#/30) to urge your lawmakers for liability protection in a future COVID-19 response bill.

### **HOUSE TO VOTE ON IMPROVEMENTS TO THE PAYCHECK PROTECTION PROGRAM (PPP) NEXT WEEK**

Next week, the House is expected to approve bipartisan legislation to make several improvements to the PPP. H.R. 6886, the Paycheck Protection Flexibility Act, cosponsored by Reps. Dean Phillips (D-MN) and Chip Roy (R-TX), would allow businesses receiving forgivable PPP loans additional flexibility in using their loan proceeds which would:

- Allow forgiveness for expenses beyond the eight-week covered period;
- Eliminate restrictions limiting non-payroll expenses to 25 percent of loan proceeds;
- Eliminate restrictions that limits loan terms to two years;
- Ensure full access to payroll tax deferment for businesses that take PPP loans; and
- Provide a rehiring safe harbor for businesses unable to rehire employees due to the effects of enhanced Unemployment Insurance

Given that Senate Republicans are generally supportive of these changes to the PPP, it's likely that the PPP will be revised soon. PMAA also signed onto a letter this week along with the Chamber of Commerce and dozens of business associations requesting emergency legislative and administrative action to repeal the PPP's 75%-25% rule, extending the eight-week period for purposes of calculating loan forgiveness, and extending the June 30 safe harbor date for rehiring and restoration of pay. These steps would conform the PPP with the reality of the gradual reopening now occurring across the United States and would help ensure that more small businesses remain in operation. Click [here](https://www.uschamber.com/letters-congress/coalition-letter-fixes-the-paycheck-protection-program) to read the letter. (https://www.uschamber.com/letters-congress/coalition-letter-fixes-the-paycheck-protection-program)

### **SUPREME COURT DENIES REQUEST TO HEAR CASE CHALLENGING THE POINT OF OBLIGATION UNDER THE RFS**

Recently, the U.S. Supreme Court denied a request to review a challenge to the RFS point of obligation brought by Valero Energy Corp. and the American Fuel and Petrochemical Manufacturers (AFPM). Independent merchant refiners petitioned the EPA in 2016 to consider changing the point of obligation under the RFS which is used to identify the party required to meet annual renewable fuel blending mandates established by the EPA. The EPA rejected the petition for rulemaking stating it did not anticipate any benefit from moving the point of obligation to position holders at the terminal rack. Instead, the agency contended such a change would significantly increase the complexity of the RFS program and reduce its effectiveness by exponentially increasing the number of obligated parties subject to annual blending mandates.

Independent merchant refiners who do not blend renewable fuel support moving the point of obligation to blenders position holders at the terminal rack so refiners would no longer be required to purchase RIN credits which they currently rely on each year to meet their entire renewable fuel blending mandate. Merchant refiners say the cost of RIN credits is increasingly expensive and creates an uneven playing field by producing windfall profits for blenders who create and sell the RIN credits back to them for compliance with RFS blending mandates. Renewable fuel blenders, on the other hand, want to keep the point of obligation at the refiner so they can continue to earn profits off the sale of RIN credits they create through blending and use them to subsidize the price of gasoline and diesel fuel at their own retail outlets.

Valero and AFPM requested the Court to decide whether the language of the Clean Air Act requires EPA to determine the point of obligation each year in the same rulemaking that sets annual RFS blending mandates for obligated parties. The Supreme Court's denial of their request likely ends the effort to move the point of obligation to the position holder at the terminal rack.

### **NOAA EXPECTS AN ABOVE NORMAL 2020 HURRICANE SEASON**

National Oceanic and Atmospheric Administration (NOAA) announced this week that it expects the 2020 Hurricane season to be above normal. NOAA forecasts 13 to 19 named storms, with six to 10 possible hurricanes and three to six of those could become Category 3 hurricanes or higher.

Click [here](https://www.noaa.gov/media-release/busy-atlantic-hurricane-season-predicted-for-2020) for the full story. (https://www.noaa.gov/media-release/busy-atlantic-hurricane-season-predicted-for-2020)

### **COVID-19 RESPONSIBLE RECOVERY COMPENDIUM**

On Wednesday, the *Oil and Natural Gas COVID-19 Responsible Recovery Compendium* was released and shared with our federal, state, local, tribal, and other private sector partners. PMAA served on the Responsible Recovery Compendium Work Group that wrote the document. Click [here](https://www.pmaa.org/pdfs/ONG_COVID-19_Responsible_Recovery_Compndium.pdf) to read it. (https://www.pmaa.org/pdfs/ONG\_COVID-19\_Responsible\_Recovery\_Compndium.pdf)

The compendium is intended to serve as a compilation of the operational realities, challenges, and mitigation strategies of the energy sector in its recovery to this pandemic. It also stresses the importance of partnerships and shared

responsibilities across the sector and with government partners at all levels.

While much of the nation transitioned to telework operations, reduced operations, or had temporarily ceased work per state and local mandates, a significant portion of oil and gas operators continued field work to ensure the safe and reliable delivery of energy to fuel our nation's economy. Now, as other critical infrastructures are planning for 're-entry,' the oil and natural gas subsector is moving into a recovery phase.

The *Oil and Natural Gas COVID-19 Responsible Recovery Compendium* will serve as a reference for this pandemic and any future pandemics our world may face. We hope our partners and other industries may benefit from the collective knowledge in the *Responsible Recovery* document.

### **FEMA RELEASES PANDEMIC OPERATIONAL GUIDANCE FOR HURRICANE SEASON AND ALL HAZARDS**

To address the challenges of managing disaster response and recovery efforts during this year's hurricane season and other disasters such as flooding and wildfires, FEMA has released the "[COVID-19 Pandemic Operational Guidance for the 2020 Hurricane Season](https://www.dol.gov/newsroom/releases/whd/whd20200518)" (<https://www.dol.gov/newsroom/releases/whd/whd20200518>) to help emergency managers, public health officials, and the private sector best prepare for new disasters, while continuing to respond to and recover from coronavirus (COVID-19). Specifically, the guidance:

- Outlines funding of Emergency Protective Measures by state;
- Describes anticipated challenges to disaster operations;
- Highlights planning considerations based on current challenges;
- Outlines how FEMA plans to adapt response and recovery operations;
- Shares understanding of expectations between FEMA and emergency managers; and,
- Provides guidance, checklists, and resources to support response and recovery planning.

While aspects of FEMA program delivery are different this year, FEMA does not anticipate major changes in program eligibility, timeliness of grant awards, or level of assistance provided under the Individual and Households Program.

### **DOL ISSUES FINAL RULE CLARIFYING OVERTIME RULES FOR RETAIL AND SERVICE INDUSTRY EMPLOYERS**

On Monday, the Department of Labor's (DOL) Wage and Hour Division (WHD) issued a final rule, effective immediately, simplifying an overtime exemption for commission-based workers in the retail and service industries. The new rule is designed to provide greater clarity and flexibility for employers by withdrawing two provisions from the WHD regulations.

Click [here](https://www.dol.gov/newsroom/releases/whd/whd20200518) (<https://www.dol.gov/newsroom/releases/whd/whd20200518>) to view the DOL press release on the final rule that was announced earlier this week.

### **BIDEN SELECTS GREEN NEW DEAL ADVOCATES TO RUN PRESIDENTIAL CLIMATE CHANGE TASK FORCE**

Presumptive Democratic nominee Joe Biden has selected co-chairs for his climate change task force, Rep. Alexandria Ocasio-Cortez (D-NY) and former Secretary of State John Kerry. Allowing these progressives to lead direction on climate change policy is an effort to unite the party before the general election in November.

The group will also include the executive director of the Sunrise Movement, Varshini Prakash. Sunrise is the youth-led champion of the Green New Deal. The task force is one of many and are being formed by Senator Sanders (D-VT). When Sanders endorsed Biden in April, he said that in spite of the differences between Biden and Sanders, "I hope that these task forces will come together utilizing the best minds and people in your campaign and in my campaign to work out real solutions to these very, very important problems."

### **FEDERATED INSURANCE: RISK MANAGEMENT CORNER**

#### ***Working in Heat***

After a long, gray winter, the sun is shining, the birds are chirping, and the mercury is rising — and rising, and rising. For several weeks in the spring, outdoor work is going to be comfortable — even preferable to indoor work. But by mid- to late June, the temps will begin to take their toll.

Preparing for and handling working in heat and humidity can provide protection from potentially deadly conditions. Your body is designed to cool itself and normally does a good job. But if you are exposed to extreme heat for too long, sweat a lot and do not rehydrate, your cooling system may fail. A heat-related illness can start slowly — you may not even realize it is happening — but it can quickly get worse if it is not treated.

To learn more about the dangers and how to avoid them in addition to the warning signs, please click [here](https://www.federatedinsurance.com/posts/risk-management-corner/2020-04-working-in-heat). (<https://www.federatedinsurance.com/posts/risk-management-corner/2020-04-working-in-heat>) For additional information or to discuss further, please contact your Federated regional representative or PMAA's National Account Executive Jon Medo at 800.533.0472.

## WPMA COVID-19 - CRITICAL REFERENCES FOR MEMBERS

Please visit our web site for up-to-date information related to your business and the COVID-19 pandemic. You will find the link on our home page at [www.wpma.com](http://www.wpma.com).

## MEMBERS AND ASSOCIATES - YOU CAN CONTRIBUTE!

WPMA welcomes industry-related articles for publication in the WPMA News magazine. All members and associate members of WPMA are eligible to submit items for publication. Articles will be included as space allows, and no self-promoting articles or editorials will be accepted. WPMA reserves the right to edit and make adaptation of such contributions to accommodate the magazine's space and style. Please submit articles or content to Jan Roothoff, WPMA Administration/IT Director at [janr@wpma.com](mailto:janr@wpma.com), or mail to Jan Roothoff, Western Petroleum Marketers Association, PO Box 571500, Murray, UT 84157-1500. Submissions for the Summer edition of WPMA News magazine are due before April 30th. Later submissions will be considered for the Fall issue.

# WPMA EXPO

February 16-18, 2021. The Mirage Las Vegas, Nevada.

## WPMA MEMBER SERVICES



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**Petro Pete: "I think it's wrong that only one company makes the game Monopoly."**

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